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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

ARMANDO SOLIS MARTINEZ,

Defendant and Appellant.

H029730

(Santa Clara County

Super.Ct.No. BB300507; BB513313)

On May 7, 2003, defendant Armando Solis Martinez pleaded guilty to a felony violation of Penal Code section 245, subdivision (a)(1), assault with a deadly weapon, and two related misdemeanors. On July 24, 2003, he was placed on probation for a period of three years with various terms and conditions. On August 29, 2005, defendant pleaded guilty to inflicting corporal injury on a cohabitant (Pen. Code, § 273.5, subd. (e)(2)) and admitted a strike prior (Pen. Code, §§ 667, subd. (b) - (i); 1170.12). It was stipulated that the sentence for both cases would be five years “top and bottom.” Pursuant to this agreement, on October 27, 2005, defendant was sentenced to a five year term in the state prison.

Defendant filed a timely notice of appeal.

Appointed appellant counsel has filed an opening brief which states the case and the facts but raises no specific issue. Defendant has submitted a letter on his own behalf,

suggesting that his trial counsel rendered ineffective assistance. Specifically, he complains that his counsel did not analyze the information in the case file and failed to investigate the facts and circumstances of the case. Defendant states that he attempted suicide while in the county jail and his counsel, knowing that, did not file a motion for a psychiatric examination. Finally defendant states that at the time he entered the plea, a few days after the suicide attempt, he was taking anti-depressants.¹ He notes that his attorney did not file a motion “for temporary mental incompetence.”

Defendant’s claims are not cognizable on appeal. Because the record does not reflect the basis for the challenged omissions by defendant’s counsel, defendant’s complaints are more appropriately made in a petition for habeas corpus. (*People v. Pope* (1979) 23 Cal.3d 412, 426 overruled on other grounds in *People v. Berryman* (1993) 6 Cal.4th 1048, 1081, fn. 10 overruled on other grounds in *People v. Hill* (1998) 17 Cal.4th 800, 823, fn.1.)

¹ This assertion is not supported by the record. At the time the plea was taken, the following colloquy occurred: “THE COURT: Mr. Martinez, have you consumed any drug, narcotic, medication or alcoholic beverage within the last 24 hours? [¶] THE DEFENDANT: No. [¶] THE COURT: Have you had any substance which affects your understanding? [¶] THE DEFENDANT: No.”

Pursuant to *People v. Wende* (1979) 25 Cal.3d 436, we have reviewed the entire record and have concluded that there is no arguable issue on appeal.

The judgment is affirmed.

Duffy, J.

WE CONCUR:

Mihara, Acting, P.J.

McAdams, J.